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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,668	03/25/2004	James T. Beaty	3921	6207

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CHARLOTTE, NC 28211

EXAMINER
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EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/808,668

Applicant(s)

BEATY, JAMES T.

Examiner

Joseph F. Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 18-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/25/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-17, drawn to a disposable shopping cart cover, classified in class 297, subclass 219.1.
  - II. Claims 18-40, drawn to a shopping cart disposable cover system, classified in class 297, subclass 256.17.

The inventions are distinct, each from the other because of the following reasons:

Inventions Group I and Group II are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination need not have a sheet with tails providing a barrier covering for each leg opening. The subcombination has separate utility such as used for covering a portion of a booster seat with a horizontal bar and leg openings.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

2. This application contains claims directed to the following patentably distinct species of the claimed invention:

- a. Specie I, Figures 1-3;
- b. Specie II, Figure 5;
- c. Specie III, Figure 6.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with R. Brockington on 26 July 2005 a provisional election was made without traverse to prosecute the invention of Group I and Specie I, claims 1-15 and 17. Affirmation of this election must be made by applicant in replying to this Office action. Claims 16 and 18-40 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because the abstract exceeds 150 words. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,330,888 to Klepfer.

Klepfer discloses a cover that includes all the limitations recited in claim 1.

Klepfer shows a cover having a flexible planar sheet 102 (Fig. 1) of sanitary polymeric film with front and back sides, and a pressure sensitive adhesive coating 108 (Fig. 1) on the back side of the sheet wherein the sheet has width greater than a sum of the space between a restraint railing and a horizontal bar of a shopping cart plus the circumference of the horizontal bar and the perimeter of the restraint railing, the sheet has a first edge length that is less than the overall length of the horizontal bar, the sheet has a second edge length that is less than the sectional length of the restraint railing, the cover is capable of adhering and stretching taut across the space between the horizontal bar and the restraint railing providing a sanitary protective covering over the horizontal bar and the restraint railing, and the cover is capable of serving as an activity center.

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7. Claims 1, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,883,701 to Rankin et al.

Rankin et al. disclose a cover that includes all the limitations recited in claim 1, 6, and 7. Rankin et al. show a cover having a flexible planar sheet 20 (Fig. 4) of sanitary polymeric film with front and back sides, a pressure sensitive adhesive 159 (Fig. 5) coating on the back side of the sheet, a reinforcing carrier film 216 (Fig. 5) adhered to the back side of the sheet, and a removable release liner 157 (Fig. 5) wherein the sheet has width greater than a sum of the space between a restraint railing and a horizontal bar of a shopping cart plus the circumference of the horizontal bar and the perimeter of the restraint railing, the sheet has a first edge length that is less than the overall length of the horizontal bar, the sheet has a second edge length that is less than the sectional length of the restraint railing, the cover is capable of adhering and stretching taut across the space between the horizontal bar and the restraint railing providing a sanitary protective covering over the horizontal bar and the restraint railing, and the cover is capable of serving as an activity center.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2-5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klepfer in view of U.S. Patent No. 5,445,380 to Polsky.

Klepfer discloses a cover that is basically the same as that recited in claims 2-5 and 11 except that film is not specified as transparent and lacks reverse printed viewable images, as recited in the claims. Polsky shows a polymeric film similar to that of Klepfer wherein the polymeric film 100 (Fig. 1) is transparent and has a back side that is reverse printed producing viewable images on a front side that are entertaining advertisements. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cover of Klepfer such that the polymeric film is transparent and the back side of the sheet is reverse print to produce viewable images of entertaining advertisements on the front side of the sheet that are protected by the film wherein ink is not in direct contact with the child and the images form a printed activity center, such as the polymeric film disclosed in Polsky. One would have been motivated to make such a modification in view of the suggestion in Polsky that reverse printed images produce an image when folded, such as the folded sheet in Figure 9 of Klepfer.

10. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klepfer in view of U.S. Patent No. 4,769,024 to Pike et al.

Klepfer discloses a cover that is basically the same as that recited in claims 6 and 7 except that the back sheet lacks a reinforcing carrier film, as recited in the claims. See Figure 10 of Klepfer for the teaching that the edge 114 of the cover forms a removable release liner protecting the pressure sensitive adhesive coating. Pike et al.



shows a sheet similar to that of Klepfer wherein the sheet (see Fig. 4) has a back side with a reinforcing carrier film coated with a pressure sensitive adhesive (Fig. 10).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cover of Klepfer such that the pressure sensitive adhesive coating is coated onto a reinforcing carrier film that is adhered to the back side of the sheet, such as the sheet disclosed in Pike et al. One would have been motivated to make such a modification in view of the suggestion in Pike et al. that the sheet with layers of pressure sensitive adhesive and carrier films of polypropylene provide a plateau effect in adhesive strength values for the pressure sensitive adhesives.

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klepfer in view of Pike et al. as applied to claims 6 and 7 above, and further in view of U.S. Patent No. 6,783,831 B2 to Cho.

Klepfer, as modified, discloses a cover that is basically the same as that recited in claim 8 except that the film is not specified as extending to the edges, as recited in the claim. See Figure 6 of Klepfer for the teaching that the reinforcing adhesive film is comprised of two strips 118,121. Cho shows a cover similar to that of Klepfer wherein the sheet has reinforcing adhesive film comprised of two strips 1B,8B (Fig. 2) with left and right strips each extending from a first edge length to a second edge length along left and right side of the sheet. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the cover of Klepfer such that the reinforcing adhesive film is comprised of two strips wherein a left strip extends from the first edge length to the second edge length adjacent to a left side

of the cover and a right strips extends from the first edge length to the second edge length adjacent to a right side of the cover, such as the cover disclosed in Cho. One would have been motivated to make such a modification in view of the suggestion in Cho that the reinforcing adhesive film configuration provides adhesive that substantially covers the bottom side of the cover to prevent a child from removing the cover.

12. Claims 9, 10, 12-15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klepfer, as modified, in view of Pike et al. as applied to claim 8 above, and further in view of U.S. Patent No. 5,897,164 to Kagan et al.

Klepfer, as modified, discloses a cover that is basically the same as that recited in claims 9, 10, 12-15, and 17 except that the cover lacks perforations initiating at a midway point that provide tails, as recited in claims. See Figure 7 of Klepfer for the teaching that the cover is a trapezoid that is a rectangle and column 3, lines 1-4 for the teaching that the sanitary polymeric film comprises polyethylene. Kagan et al. show a cover similar to that of Klepfer wherein the cover (see Fig. 5) has perforations initiating from a point midway from an edge such that the perforations bifurcate the cover forming two tails in the sheet. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the cover of Klepfer such that the cover has a tearable perpendicular plurality of perforations which initiates from a point about midway from the second edge length such that, when torn, the plurality of perforations bifurcates forming two tails in the sheet wherein the tails provide an opening capable of accepting at least one supporting rod, the cover is capable of use in a child's seat of a grocery shopping cart, the tails provide a barrier covering for leg

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openings, the cover is capable of being removed and disposed without leaving an adhesive residue, such as the cover disclosed in Kagan et al. One would have been motivated to make such a modification in view of the suggestion in Kagan et al. that the tails extending midway from an edge of the cover allows coverage of a baby in a supporting structure with an obstruction.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to covers:

U.S. Pat. No. 3,635,523 to Alpert

U.S. Pat. No. 3,654,059 to Zisblatt

U.S. Pat. No. 3,916,447 to Thompson

U.S. Pat. No. 4,805,937 to Boucher et al.

U.S. Pat. No. 5,243,724 to Barnes

U.S. Pat. No. 5,547,250 to Childers

U.S. Pat. No. 5,829,835 to Rogers et al.

U.S. Pat. No. 6,491,996 B2 to Digangi

U.S. Pat. No. 6,832,766 B2 to Stokes

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for


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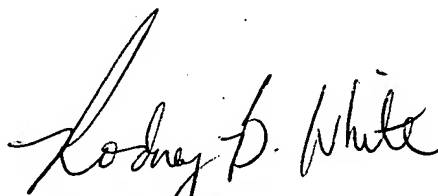
published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

  
JE  
July 27, 2005

  
**RODNEY B. WHITE**  
**PRIMARY EXAMINER**